

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---|---|---|
| DERRICK A. RANKINE, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 03-313E |
| |) | |
| V. |) | |
| |) | |
| SUPERINTENDENT RAYMOND J. |) | Judge Sean J. McLaughlin |
| SOBINA; UNIT MANAGER McNELIS; |) | Mag. Judge Susan Paradise Baxter |
| UNIT COUNSELOR HUGHES; C.O. |) | |
| TROJAN; UNIT MANAGER |) | |
| MAILMAN; C.O. HECKMAN; UNIT |) | |
| COUNSELOR HERDMAN; SGT. |) | |
| CASTINA; MEMBERS OF THE PRC; |) | |
| HEARING EXAMINER CROSS; |) | |
| MARY ANN BERTOLINO; LT. |) | |
| STEVE SIMOSKO; C.O. MUNION; |) | |
| C.O. PRITTS; C.O. CHAPLEY; C.O. |) | |
| FEY; C.O. LUKE; C.O. HEISS; C.O. |) | |
| HUBER; C.O. KROMELL; SGT. |) | |
| STAYER; SGT. DELOSH; LT. T. J. |) | |
| WILSON; JOSEPH; MOLLIGAN, |) | |
| |) | |
| Defendants. |) | Electronically Filed. |

DEFENDANTS' NOTICE TO THE COURT
REGARDING GRIEVANCE NUMBER 69970

AND NOW, come the defendants, Sobina, McNelis, Hughes, Trojan, Mailman, Heckman, Herdman, Castina, Members of the PRC, Cross, Bertolino, Simosko, Munion, Pritts, Chapley, Fey, Luke, Heiss, Huber, Kromell, Stayer, Delosh, Wilson, Joseph, and Molligan by their attorneys Thomas W. Corbett, Jr., Attorney General, Mariah L. Passarelli, Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and respectfully submit the following:

1. Plaintiff, Derrick A. Rankine, is a *pro se* prisoner currently in the custody of the Pennsylvania Department of Corrections (DOC) in the State Correctional Institution at Fayette (SCI-Fayette).

2. Plaintiff has brought the instant action pursuant to 42 U.S.C. §§ 1983, 1985, and 1986 against several individuals employed by the DOC.

3. After a troubled procedural odyssey that need not be recounted here, the defendants filed a Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, and brief in support thereof on May 17, 2006 pertaining to Plaintiff's original and subsequent amended complaints. (See Docket # 108-109).

4. In section B of the brief, and in a declaration attached to the motion as Exhibit A, the defendants contended that several of Plaintiff's grievances had not been exhausted pursuant to the Prison Litigation Reform Act (PLRA), including grievance numbered 69970. (See Docket # 108, at Exhibit A; and # 109, at Section B).

5. Upon closer inspection of the documents associated with this case, there appears to be two grievances numbered 69970, each containing different dates and different texts.

6. For clarification purposes, the defendants submit that the grievance number 69970 to which they referred to in their previous brief – and correspondingly to which Tracy Pollock referred in the associated declaration – is a document dated December 11, 2003. (See Exhibit 1, attached hereto).

Respectfully submitted,

Thomas W. Corbett, Jr.
Attorney General

BY: /s/ Mariah L. Passarelli
MARIAH L. PASSARELLI
Deputy Attorney General
PA I.D. No. 202469

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief Litigation Section

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Pittsburgh, PA 15219

(412) 565-3579

Date: September 12, 2006

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
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| DERRICK A. RANKINE, |) | Civil Action No. 03-313E |
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| Plaintiff, |) | |
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| V. |) | Judge Sean J. McLaughlin |
| |) | Mag. Judge Susan Paradise Baxter |
| |) | |
| SUPERINTENDENT RAYMOND J. |) | |
| SOBINA, et al. |) | Electronically Filed. |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Defendants' Notice to the Court Regarding Grievance Number 69970** was electronically filed and served upon the following via first-class mail:

DERRICK A. RANKINE
EU-5850
SCI-Fayette
50 Overlook Drive
LaBelle, Pennsylvania 15450-1050

BY: /s/ Mariah L. Passarelli
MARIAH L. PASSARELLI
Deputy Attorney General

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Pittsburgh, PA 15219

(412) 565-3579

Date: September 12, 2006